



The Compliance Connection

Regulatory News for Virginia Mortgage and Consumer Finance Licensees

State Corporation Commission -- Bureau of Financial Institutions

Senate Bill 1103 Signed by Governor:

The Compliance Connection is published quarterly and is part of the Bureau's efforts to improve communication with the companies we regulate. It is distributed to Virginia mortgage, consumer finance, industrial loan and nonprofit debt counseling agency licensees, and other interested parties. It is the licensee's responsibility as a Virginia mortgage licensee to read this newsletter and to be familiar with the positions and interpretations stated herein.

Suggestions and comments concerning the newsletter or its contents should be addressed to the Bureau at P.O. Box 640, Richmond, Virginia 23218-0640 or via e-mail at: nwalker@scs.state.va.us.

Special thanks to Susan Hancock, Jane Owen and Andy Farmer for their contributions to this issue!

Senate Bill 1103 contains recommendations of the Virginia Housing Study Commission to strengthen consumer protection measures in the Mortgage Lender and Broker Act. The bill, signed by the Governor and effective July 1, 2003, amends the Mortgage Lender and Broker Act as follows:

§6.1-411 Persons exempt from chapter.

Reduces the number of loans a mortgage lender could make in any period of 12 consecutive months without a license from 10 to 3.

§6.1-422.1 "Flipping" prohibited

Subsection A: Clarifies the definition of flipping and provides factors that are to be considered when determining if a refinancing is in the borrower's best interest. The factors include, but are not limited to whether:

- 1) The borrower's new monthly payment is lower than the total of all monthly debt obligations being financed, considering the costs and fees;
- 2) There is a change in the amortization period of the new loan;
- 3) The borrower received cash in excess of the costs and fees of refinancing;
- 4) The borrower's note rate of interest is reduced;
- 5) There is a change from an adjustable- to a fixed-rate loan, taking into account

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SCC 1903 – 2003

Celebrating a Century of Service to the Commonwealth

The creation of the Virginia State Corporation Commission in the early years of the 20th century was a decisive shift in the organization of state government. Regulatory decision making moved from the legislature to a permanent body which could hire specialists and conduct inquiries. The SCC was organized as a separate department of state government with its own legislative, administrative and judicial powers. As the decades went by, the Commission was given increased regulatory authority over diverse business and economic interests. Because of its unique structure and duties, it has been described as the "fourth branch of government" and "the most powerful regulatory body in America."

In 1901 there was significant support for the creation of a regulatory body that could control railroad companies and fix rates to protect the people of Virginia. A. Caperton Braxton, chairman of the corporations committee at the constitutional convention in 1901 advocated the formation of a government organization with the authority to administer equal justice between two opposite interests.

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Surge in Application Filings:

In 2002, the Bureau experienced a significant increase in the number of applications for various certificates of authority and licenses. The total number of applications increased from 1,325 in 2001 to 2,429 in 2002 or by 83%.

According to Deputy Commissioner Nick Kyrus, the continuing expansion of the mortgage industry and the new regulation of payday lenders are responsible for the application surge. Mortgage lender/broker application filings increased from 1,111 in 2001 to 2,047 in 2002. (The majority of the applications have been for office relocations and additional offices.) In addition, the Bureau received 161 applications from payday lenders in the second half of 2002. At the end of 2002, the Bureau regulated 1,657 financial institutions and licensees.

The Bureau's Corporate Structure and Research Section is responsible for processing applications of both depository (banks, savings institutions and credit unions) and non-depository (mortgage lenders/brokers, consumer finance companies, nonprofit debt counseling agencies, industrial loan associations, payday lenders, check cashers and money order sellers/transmitters). Depository institutions filed 112 applications while non-depository institutions filed 2,317 applications in 2002.

Despite the surge of application filings, the processing time has not increased.

BFI Licensees & Registrants

Type	# as of 12/31/02
Banks	93
Credit Unions	73
Savings Institutions	2
Trust Companies	8
Mortgage Lenders	113
Mortgage Brokers	696
Mortgage Lenders/Brokers	244
Consumer Finance	235
Payday Lenders	47
Check Cashers	74
Industrial Loan Assns.	7
Nonprofit Debt Counselors	24
Money Order Sellers/ Transmitters	41

The Soldiers' & Sailors' Civil Relief Act (SSCRA)

The Soldiers' and Sailors' Civil Relief Act of 1940 provides a wide range of protections for individuals entering or called to active duty in the military service. The SSCRA is intended to postpone or suspend certain *civil* obligations to enable service members to devote full attention to duty. Reservists and the members of the National Guard are protected by the SSCRA while on active duty. The protections generally begin on the date



of entering active duty and generally terminate upon release from active duty.

The following are some of the most common and relevant provisions in the SSCRA that could affect companies licensed by the Bureau: installment contracts, maximum rates of interest, stay of proceedings, default judgments, insurance and taxation.

Licensees should consult with their attorney for more details on how this Act may affect their operations.



Attention New Mortgage Licensees:

Friday, May 16, 2003 is the date of the next orientation for new mortgage licensees. Companies licensed between January 1, 2003 and March 31, 2003 will receive information about the session. Orientation begins at 9:30 a.m. at our office and concludes around 3:00 p.m. Licensees who were unable to attend previous sessions should also register. Because space is limited, it is necessary to submit the registration form to the Bureau prior to the orientation date. We will make every attempt to accommodate interested parties. Call Carol Foster at (804) 371-9701 to register!

License Update

The following is a list of companies that have surrendered their licenses, had their licenses revoked, had an application denied, or been fined by the Commission since November 15, 2002. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of February 15, 2003. Call the Bureau if you have a question concerning a recent denial, surrender or regulatory action taken by the Commission. A list of current mortgage licensees is available on our Web site at <http://www.state.va.us/scc/division/banking/vamortgagelist.htm>.

Mortgage License Surrenders:

MB -- 1538 Bennie's Homes, Inc. d/b/a Colony Homes -- 11/19/02
MB -- 1803 Alambry Funding, LLC -- 12/11/02
MB -- 1046 Mortgage Lending Services, Inc. -- 12/18/02
MB -- 1867 Smith Mortgage Services, Inc. -- 12/20/02
MB -- 923 Frank T. Yoder Mortgage, Inc. -- 12/27/02
MB -- 1637 Stephanie Jean Oliver d/b/a Blue Ridge Mortgage Company -- 12/31/02
MB -- 1132 Fong Rowland Hua d/b/a Excel Mortgage & Investment Services (EMIS) -- 12/31/02
MLB -- 759 CIS Financial Services, Inc. -- 1/7/03
ML -- 488 Advance Mortgage -- 1/9/03
MLB -- 792 Johnson Mortgage Company, LLC -- 1/10/03 now exempt (wholly owned subsidiary of Union Bankshares Corporation)
MB -- 1912 Edward C. L. Holt d/b/a Cavalier Mortgage Group -- 1/13/03
ML -- 229 Aegis Mortgage Corporation d/b/a UC Lending -- 1/14/03
MB -- 1575 Richard B. Buffington, II d/b/a Diversified Mortgage Capital -- 1/27/03
MB -- 1331 Mortgage Solutions Corporation -- 2/10/03
ML -- 345 Amaximis Lending, Limited Partnership -- 2/10/03
MLB -- 831 ERA Mortgage Corporation -- 2/10/03 -- surrendered broker authority only now licensed as ML - 567
MLB -- 739 1st Metropolitan Mortgage Co.-- 2/11/03
MB -- 1365 First Liberty Financial Services, Inc. -- 2/14/03



Mortgage Applications Denied:

MB -- 1892 Nationwide Finance Corporation -- 12/16/02
MB -- 1858 Henri Jean-Baptiste -- 2/13/03

Mortgage Licenses Revoked:

MB -- 961 East Coast Funding, Inc. -- 12/23/02 -- for failure to continuously maintain surety bond as required by §6.1-413 of the Code of Virginia
ML -- 346 Community Home Mortgage Corporation -- 12/23/02 -- for failure to continuously maintain surety bond as required by §6.1-413 of the Code of Virginia
MB -- 1002 Coastal Mortgage Corp. of Virginia (used in VA by Coastal Mortgage Corp.) -- 2/4/03 -- for failure to continuously maintain surety bond as required by §6.1-413 of the Code of Virginia

Penalties Paid:

MLB -- 453 CBSK Financial Group, Inc. d/b/a Amerian Home Loans -- 12/19/02 -- paid settlement of \$20,000 for various violations of the Mortgage Lender and Broker Act
ML -- 541 Ameritrust Mortgage Company, LLC -- 2/10/03 -- paid settlement of \$1,000 for conducting business as a mortgage lender without a license, pursuant to §6.1-410 of the Mortgage Lender and Broker Act

Senate Bill 1103 (continued from page 1)

the costs and fees; or

- 6) The refinancing is necessary to respond to a bona fide personal need or an order of a court.

Subsection B: Adds brokers to the prohibition so that it now states “no mortgage lender or broker shall knowingly or intentionally engage in the act or practice of “flipping” a mortgage loan.”

§6.1-425.1 Suspension

Subsection A: Provides the Commission authority (after providing notice and an opportunity for a hearing) to censure, suspend (for a defined period of time), or bar a person from any position of employment, management, or control of any licensee if it is found that :

- 1) The censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of the Mortgage Lender and Broker Act, or any rule, regulation or order of the Commissioner; or
- 2) The person has either (i) been convicted of, or pled guilty or nolo contendere to, any crime, or (ii) held liable in any civil action by final judgment or administrative judgment by any public

agency, and the criminal, civil or administrative judgment involves an offense reasonably related to the qualifications, functions or duties of a person engaged in the mortgage lender or broker business.

Subsection B: Prohibits persons suspended or barred from participating in

any business activity of a licensee and from engaging in any activity at the location where a licensee conducts its business.

Subsection C: §6.1-425.1 applies to any violation, conviction, plea or judgment after July 1, 2003.

§6.1-425.2 Filing written report with Commissioner; events impacting activities of licensee

Within 15 days of becoming aware of the occurrence of any of the following events, a licensee must file a written report with the Commissioner describing the event and its the expected impact on the activities of the licensee:

- 1) Filing for bankruptcy or reorganization by the licensee;
- 2) Institution of revocation or suspension proceedings against the licensee by any state or governmental authority;
- 3) Denial of the opportunity to engage in business by any state or governmental agency;
- 4) Any felony indictment of the licensee or any of its employees, officers, directors or principals;
- 5) Any felony conviction of the licensee or any of its employees, officers, directors or principals;
- 6) Such other events that the Commissioner may determine and identify by rule.

The complete bill can be viewed by entering the bill number (SB1003) at::

<http://leg1.state.va.us/031.bil.htm>



IMPORTANT COMMISSION TELEPHONE NUMBERS

Consumer Finance and Mortgage Examinations.....(804) 371-9701

Licensing (applications, name changes, relocations).....(804) 371-9690

Consumer Complaints.....(804) 371-9705

Banks and Savings Institutions.....(804) 371-9704

Corporate Information – Clerk’s Office.....(804) 371-9733

BEI FAX Number.....(804) 371-9416



SCC's Century of Service (continued from page 1)

The 1902 constitution authorized the appointment of three commissioners by the Governor and confirmed by the General Assembly for the regulation of transportation and transmission companies. Instead of applying the accepted doctrine of the separation of powers in government, the framers of the constitution authorized an organization with its own legislative, administrative and judicial powers. The Commission could make its own rules and enforce them. No state court except the Virginia Supreme Court could review or reverse any of its rulings.

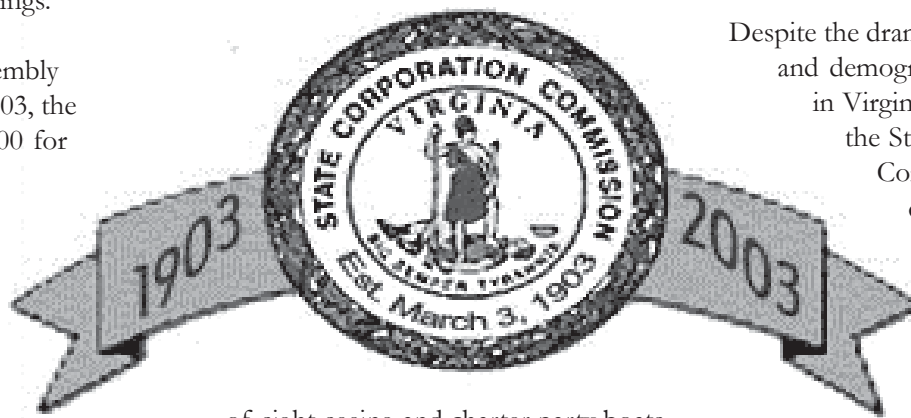
When the General Assembly convened in January 1903, the legislature provided \$500 for the Commission to prepare offices and authorized it to hire a clerk, a first assistant clerk, a bailiff and a stenographer "who shall also have a typewriter."

In its first year of service, the Commission reported that it granted 482 charters for corporations and generated \$488,271 in revenue for the Commonwealth while spending a budget of under \$24,000. Processing consumer complaints was a significant Commission activity from the very beginning, the SCC reported. "A very large number of complaints against railroads were informally brought to the attention of the Commission...and all...were promptly taken up by the Commission and proper relief given in all cases in which the complaints were just [sic] founded."

Within three years, the Commission's regulatory authority was broadened by the General Assembly with the creation of the Bureau of Insurance. That same year, the SCC was also authorized to investigate cases of suspected arson. The regulation of banking was added

in 1910, and fixing the rates of public utilities began in 1914. The supervision of the sale of securities (Blue Sky Law) started in 1918 and the regulation of transportation by motor vehicle began in 1923.

Since the beginning of the Commission, the legislature has approved more than 60 expansions of SCC authority. Some of the unusual areas of authority were the licensing of dams, the registration of laundry marks, the regulation of parachute jumping, and the regulation



of sight-seeing and charter party boats. The Commission even had control over the tolls charged on Richmond's Boulevard Bridge. Built in 1925 by a development company, the bridge was privately owned until 1969. When the owners wanted to reduce the toll from a dime to a nickel, they had to seek the permission of the SCC. In a 1975 *Richmond Times-Dispatch* series on the SCC, former Commissioner H. Lester Hooker was asked why the General Assembly continued to hand the regulatory agency new responsibilities. "Well, you know," he replied, "anything they didn't know what to do with, they'd give to the SCC." Former Wisconsin Public Service Commissioner Arthur L. Padrutt, testifying to a legislative panel in the 1970's, offered a summary of the SCC and its activities: "One can view it only with a sense of fatigue."

With its impact on so many business and economic interests in Virginia, the

SCC confronted its share of controversy in its first century. During the first decade, there were continual disputes between shippers and railroads. In 1918, the SCC was criticized by one of its own commissioners for having an inadequate staff for complex regulatory tasks, a criticism that reflects a persistent challenge for the Commission. As new problems arose with new industries, there was a need for new regulations, and the Commission was given more authority. Controversy was often followed by a period of stability.

Despite the dramatic industrial, social and demographic transformation in Virginia, the foundation of the State Corporation Commission has not changed since the first three commissioners took the oath of office on March 2, 1903. It remains an independent department of state

government that promotes and protects the public interest. It continues to be vested with legislative, administrative and judicial authority. No other state in the country consolidates so many regulatory functions into one organization. While always open to adapting to change, the stability of the SCC provides an opportunity for all to be heard on any matter, within the Commission's authority, and to do so in a timely manner. Its tasks may be highly technical in nature, but the SCC has maintained a simple structure to meet the demands of an evolving regulatory environment.

*The above article was taken in part from: The Virginia State Corporation Commission 1903 - 2003 Celebrating a Century of Service to the Commonwealth, by Andrew Farmer, Education Resource Manager, State Corporation Commission.



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IMPORTANT REGULATORY INFORMATION ENCLOSED